

PressRelease

City Releases Investigative Report Regarding City Planner; Announces Disciplinary Action.

Milford, CT, July 22, 2011: Pursuant to a Freedom of Information Act request, the City today released the report by Attorney Michael Dorney of his investigative findings relative to a complaint involving City Planner David Sulkis.

The report was completed on July 12, and Mr. Sulkis was given an opportunity to review the report and provide any additional statements or facts by July 19.

As a result of the report findings, Sulkis has been suspended four weeks without pay, effective July 25, 2011. The report provides details about the reason for the suspension and, since this is a personnel matter, the City will make no further comment.

Inquiries may be directed to municipal labor counsel, Attorney Lawrence C. Sgrignari, of the law firm Gesmonde, Pietrosimone & Sgrignari, LLC, telephone (203) 407-4200.

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CONFIDENTIAL

City of Milford

Investigative Report

July 12, 2011

Introduction.

The undersigned was engaged as Investigating Counsel (hereinafter "Counsel") to conduct an investigation into certain personnel matters within the City of Milford. Specifically, Counsel was asked to explore facts related to occurrences alleged to have taken place on June 15, 2011 and June 21, 2011, along with the factual context within which those events occurred. Further, Counsel was asked to make findings of fact and submit a written report within a specified timeframe. Counsel has not been requested to offer conclusions as to whether conduct found to have occurred violated City policies, rules or regulations, or constituted a breach of employee responsibilities.

Procedure Followed.

To ascertain facts germane to the events in questions, Counsel requested and was furnished and reviewed certain documentation, interviewed several City employees, and inspected the premises where the alleged events occurred. Specifically, Counsel interviewed:

Kathleen Kuchta, Zoning Enforcement Officer

Barbara Brown, Clerk, Planning and Zoning

Jocelyn Mathiasen, Executive Director, Department of Permitting and Land Use

David Sulkis, City Planner

Factual Background.

In December 2008, L. Robert Kimball & Associates submitted to the City a Recommendations Report on Land Use and Construction Permitting identifying opportunities for improvement in order to make the land use process more user-friendly for applicants and more efficient for City personnel. That report was followed by a September 2009 Report of the Kimball Implementation Team to the Board of Aldermen and Mayor of the City. Shortly thereafter, and specifically on October 5, 2009, the Board of Aldermen of the City enacted an Ordinance that created a Department of Permitting and Land Use (DPLU) and abolished the Milford Planning and Zoning Department as an independent department of City government. (Ordinance attached as Exhibit A.)

The Ordinance created the position of Executive Director of the DPLU, who, among other things was to be responsible for the efficient operation of the DPLU and be the direct supervisor to the City Planner, Assistant City Planner, Inland Wetlands Compliance Officer, Zoning Enforcement Officer, and Chief Building Inspector. The position of City Planner was retained, such person to be appointed by the Mayor upon the recommendation of the Planning and Zoning Board, and responsible to, and under the general supervision of the Executive Director. The Ordinance provides that the City Planner shall, under the direction of procedures established by the Executive Director, supervise the land use division staff. (Attached hereto as Exhibit B is a Department of Permitting & Land Use Organizational Chart showing the relationships between the various positions. It is believed that the "Revised" indication on the exhibit results from the addition of the position of Assistant City Planner, which was called for by the

Ordinance, but not found in a prior Organizational Chart appearing in the September 2009 Report of the Kimball Implementation Team.)

Although not part of this investigation in a general sense, Counsel received information and reviewed documents that would indicate that subsequent to the passage of the Ordinance and to the present, there has been friction involving the City Planner with respect to the relative powers of the Executive Director vis-à-vis those of the City Planner, and a resistance by the City Planner to involvement of the Office of City Attorney (CAO) in the legal affairs of the planning and zoning function within the City.

Results of Employee Interviews.

Kathleen Kuchta, Zoning Enforcement Officer

Mrs. Kuchta was employed by the City effective December 13, 1999 and held a number of positions before becoming Zoning Enforcement Officer (ZEO) on July 5, 2010. Mrs. Kuchta as ZEO has an office (with a closing door) within the space in the Parsons Government Center that accepts and interacts with the public intending to conduct land use business with the City. In her ZEO position, Mrs. Kuchta attends to the desk for several hours each day dealing with the public on permitting and other issues. She deals with requests for construction and development, researches and considers permit entitlement, makes property inspections, addresses zoning and other violations, and from time to time is required to pursue zoning enforcement. In carrying out her work, she must consult the City Attorney's office on almost a daily basis not just for advice but to pursue legal matters and violations, etc. that are pending. To efficiently and

expeditiously carry out the public's business, she must receive advice and answers to her inquiries on a timely basis.

On Wednesday, June 15, 2011, the City Planner, David Sulkis, who has an office in an adjacent area within the Parsons Complex, came into Mrs. Kuchta's office and upon entering said "[y]ou know it's all your fault". She asked him what he was referring to. He stated that he was referring to a particular property that had gone before the City's Zoning Board of Appeals. It is a property with respect to which the Zoning Commission and the Zoning Board of Appeals are of different opinions. When asked why that dispute was her fault, Mr. Sulkis responded that she was "always asking the city attorney's office for their opinion thereby giving them a 'toe-hold' into zoning issues that were not of their concern and allowing them to make decisions for us that we should be making ourselves". Mr. Sulkis went on to state that Mrs. Kuchta is not allowed to consult with the City Attorney's Office without first consulting with him or the Assistant City Planner.

Whereupon, Mrs. Kuchta informed Mr. Sulkis that she consulted with the City Attorney's office on almost a daily basis and reiterated the importance of that ability and communication. Mr. Sulkis responded that it was "all right to consult with them on mundane matters, but not on matters that required interpretation of our regulations or state statutes without first discussing it with him or [the assistant city planner]". Mrs. Kuchta came away from that discussion with the impression that she was prohibited from consulting with the City Attorney's Office on matters of substance without first obtaining the consent of the City

Planner or Assistant City Planner. Mrs. Kuchta felt that there was a problem with that in that (1) there was often a delay before she could get a response from the planner thereby negatively affecting the timeliness of her completing her tasks; and (2) she felt that there were matters where she needed specific legal advice from the City Attorney's office.

Because of her concerns, by June 20, 2011 when the DPLU Director returned from an absence, she informed the Director of this portion of the June 15 conversation with Mr. Sulkis, because she (Mrs. Kuchta) was concerned about not being able to obtain needed information from the City Attorney's Office, with which she works very closely. The Director asked Mrs. Kuchta to send her an e-mail summarizing what Mr. Sulkis had said. That e-mail was prepared and sent on June 20, 2011 at 10:40 a.m., and is attached hereto as Exhibit C.

On June 21, 2011, Mrs. Kuchta alleges that Mr. Sulkis came to her office at approximately 11:30 a.m. and shut the door. Upon entering, he stated that "he was not there and we never had this conversation". She states she covered her ears and said "then let's not have the conversation". He proceeded and stated that he had heard that Mrs. Kuchta had put information concerning him in writing to the Director. He asked what she wrote. She responded that it was "a couple of sentences re contacting the city attorney's office". Mrs. Kuchta stated that Mr. Sulkis had said that she "cannot contact the City Attorney's office without consulting with [the planner] and [the assistant planner] first". Mr. Sulkis told Mrs. Kuchta that if she is "going to file grievances or be part of a plot against

him, that [she] was going to lose". Mr. Sulkis stated that the Director was conspiring against him and trying to have him fired and that Mrs. Kuchta was not to put anything in writing concerning him again. He stated that "[the Director] cannot ask for it and if she does [Mrs. Kuchta] is under no obligation to give it to her". Mr. Sulkis stated that if Mrs. Kuchta told anyone what was being said in the room or tried to file any grievances against him that she "would regret it". He went on to say that [the Director] "is going to be gone in November and he will still be here and he will be in charge and he would be the boss and she [Mrs. Kuchta] would be the new John Doe".¹ Mrs. Kuchta alleges that Mr. Sulkis persisted, and stated that she should "[m]ark his words that [the Director] will definitely be gone in November and that he would be my boss". She further alleges that Mr. Sulkis stated that if she helped the Director "in any way then [Mrs. Kuchta] would be the new John Doe and that he will deny everything that was said in the room. In closing, he repeated the same three themes: that he would be in charge; that she would be the new John Doe if she tried to do anything against him or tell anyone what was said in this room; and that he would deny ever having the conversation. He then opened the door and stormed out.

Mrs. Kuchta was shaken by this conversation. She promptly wrote up a summary of what had occurred and saved it to her computer. She had already made notes with respect to the conversation of June 15, and at some point put those together with the notes of June 21. She then left for lunch to keep a pre-

¹ John Doe is a pseudonym for the name of a current city employee who some witnesses say is held in disrepute and isolated because he allegedly cooperated with top management and/or is in a position of jeopardy. Counsel does not purport to have gathered any accurate information about this individual, but it seems clear that he is at the center of some controversy.

planned family appointment, but prior to leaving the City property called Barbara Brown, a department clerk, from her car and recounted what had transpired. As will be more fully stated below, Ms. Brown encouraged Mrs. Kuchta to report the incident to the Director. Mrs. Kuchta proceeded to her lunch appointment, but was not able to eat because she was physically and emotionally shaken by the encounter with Mr. Sulkis. After leaving the site of the lunch, Mrs. Kuchta called the Director from her cell phone and told her what happened. The details of that conversation will be elaborated upon below.

Following the cell phone discussion with the Director, Mrs. Kuchta returned to her office and locked the door to her office because she was fearful of the return of Mr. Sulkis. While in her office, Mrs. Kuchta received a call from the Director requesting her to report to the office of the Personnel Director, John O'Connell. She did so, and in the presence of the DPLU Director recounted for the Personnel Director the events that transpired on June 15, June 20, and earlier that day on June 21, in detail. A brief summary of the conversation of June 21 in the office of the Personnel Director was prepared and signed by Mrs. Kuchta. A copy of that summary is attached as Exhibit D.

At the end of Counsel's interview with Mrs. Kuchta, she was shown, identified, and asked if she was willing to swear to what purports to be a copy of the notes she prepared and entered into her computer regarding the conversations with Mr. Sulkis on June 15 and June 21, 2011. She stated that the notes were accurate and swore to the truth of the same on June 28, 2011. The sworn document is attached as Exhibit E.

When questioned about the effect the encounters of June 15 and June 21 had upon her, Mrs. Kuchta stated that (1) they impaired her ability to do her job; (2) constituted intimidation to prevent her from carrying out her duties; and (3) caused her to fear for her future ability to do her job and to keep her job.

Barbara Brown, Clerk – Planning and Zoning

Barbara Brown is a Clerk in the Department of Permitting and Land Use. She was hired as a temporary employee in November 2009, and assigned to a permanent position in September 2010. Interestingly, she had previously been employed as an Operations Specialist in the Human Relations Department of a major Fairfield County, Connecticut business employing over 4,000 people. She was familiar with the training given regarding harassment and similar complaints and had, in fact, herself received such training.

As a clerk in the DPLU, she engages in intake work at the counter to service customers, makes computer entries, attends to filing and mailing, works with permitting, and takes telephone calls. Her desk/work area is near the intake counter in the DPLU office within the Parsons Complex, and when she sits or stands she has a view at an angle of the door to the office of Mrs. Kuchta.

On June 21, 2011, in the late morning Ms. Brown saw Mr. Sulkis come from the area of Mrs. Kuchta's office. He had a "severe" look, hurried by, and "scurried" out through the back door. Ms. Brown said hello to him, but he gave her no response. Ms. Brown did not literally see Mr. Sulkis leave Mrs. Kuchta's office, nor did she notice prior to that whether the door was opened or closed.

At approximately 11:45 a.m., Mrs. Kuchta left for lunch to see a family member. Shortly after she left, Ms. Brown received a call from Mrs. Kuchta who recounted many elements of the conversation between Mr. Sulkis and Mrs. Kuchta as reported above, namely:

That Mr. Sulkis “threatened” Mrs. Kuchta;

That Mr. Sulkis stated that the “conversation did not happen”;

That Mr. Sulkis was to be the “boss” of Ms. Kuchta;

That he would treat her like John Doe;

That she [Mrs. Kuchta] should not talk to the City Attorney’s office;

Mrs. Kuchta stated that she could not understand how she could be “fired” for reporting a two-sentence e-mail to the Director; and

Ms. Brown reported that Mrs. Kuchta was very upset and sounded as though she was in tears.

Based upon her own human relations training, Ms. Brown informed Mrs. Kuchta that she really had a duty to report the matter to the Director. Ms. Brown noted that she had never observed Mrs. Kuchta to be that nervous and distraught and did not know what she would do. The conversation ended at that point. After lunchtime, Mrs. Kuchta called Ms. Brown again and told her that she had reported the events to the DPLU Director, who recommended that they be reported to the Personnel Director. Mrs. Kuchta also asked Ms. Brown whether Mr. Sulkis was still in the area.

When Mrs. Kuchta returned to the office, Mr. Sulkis was not present. However, Ms. Brown noticed that Mrs. Kuchta was “fearful” and “shaking”.

Therefore, Ms. Brown told Mrs. Kuchta to lock herself in her office and she did that. It was the intention of Ms. Brown to keep an eye on Mrs. Kuchta's door from her own work vantage point, as Ms. Brown intended to intervene if Mr. Sulkis returned to the area. That situation did not develop on the afternoon of June 21.

Jocelyn Mathiasen, Executive Director, DPLU

Counsel met with and interviewed Jocelyn Mathiasen, Executive Director of the Department of Permitting and Land Use. She furnished information concerning the structure of the department in the aftermath of the October 5, 2009 Ordinance (Exhibit A), the chain of command, supervisory authority, and directions given regarding the division of tasks. Ms. Mathiasen furnished information concerning disputes that have arisen involving Mr. Sulkis questioning the authority of the Director vis-à-vis the City Planner and disagreements about the role of the City Attorney's Office in land use affairs. The details of these disputes are not important for reporting purposes here, but put into context the alleged events of June 15 and June 21, 2011.

For instance, it is clear that as of June 20, 2011, Ms. Mathiasen and Mr. Sulkis had been communicating about the alleged instructions given by Mr. Sulkis by Mrs. Kuchta on June 15 that she should not be consulting with the City Attorney's Office. Ms. Mathiasen reports that she had become aware of that exchange, had been discussing it with Mr. Sulkis, and that they remained in disagreement as to the role of the City Attorney's Office. Attached as Exhibit F is a portion of an e-mail exchange dated June 20 wherein Mr. Sulkis claims that he

only directed Mrs. Kuchta to seek a “staff consensus” with the City Planner or Assistant City Planner, and that if a consensus could not be reached, Mrs. Kuchta could then ask the City Attorney’s Office for an opinion.² Ms. Mathiasen countered that that concept differed from what Mr. Sulkis had told Ms. Mathiasen the prior week, when he indicated that zoning should avoid asking questions of the City Attorney’s Office and that Mrs. Kuchta “should not be consulting them”. [For her part, Mrs. Kuchta informed Counsel that she did not recall anything about her being able to proceed after attempting to reach a “consensus”. Her understanding of Mr. Sulkis’ direction was that unless she could obtain the approval of the City Planner or Assistant City Planner, she was not to contact the City Attorney’s office.] The back and forth discussion regarding the June 15th meeting prompted Ms. Mathiasen to request the e-mail communication from Mrs. Kuchta regarding the details of the June 15 encounter (Exhibit C).

At the urging of Ms. Brown, Mrs. Kuchta called Ms. Mathiasen following Mrs. Kuchta’s luncheon appointment on June 21. When she reached her, Ms. Mathiasen reports that Mrs. Kuchta’s “voice was shaking. I asked her to calm down and start from the beginning”. Mrs. Kuchta did so and informed her Director what had transpired in Mrs. Kuchta’s office involving Mr. Sulkis during the late morning of June 21. The details as recalled by Ms. Mathiasen and as recorded by Ms. Mathiasen in her computer, matched the earlier version set forth in this report. It will not serve any purpose here to set forth a cumulative and repetitive recordation of the same facts. Ms. Mathiasen set those forth in a two-page statement she prepared contemporaneously, and signed. The first page of

² A portion of Exhibit F dealing with attorney-client and litigation strategy matters has been redacted.

that Statement is attached hereto as Exhibit G.³ Ms. Mathiasen did report that Ms. Kuchta told her that when she returned to her office, Mr. Sulkis was waiting there and she turned the other way. After Mrs. Sulkis left the office area, Mrs. Kuchta returned, locked herself in her office, and asked Barbara Brown to watch and make sure that he did not come back.

Ms. Mathiasen did report that she asked Mrs. Kuchta if she would be willing to tell the Personnel Director what happened and her initial response is that she "might be". However, Ms. Mathiasen thereafter called the Personnel Director, John O'Connell, and read him the notes of the conversation with Mrs. Kuchta that had been taken. At Mr. O'Connell's urging, Ms. Mathiasen asked Mrs. Kuchta to meet with her in John O'Connell's office. Mrs. Kuchta did so, and described in her own words to John O'Connell what had happened. Again, Exhibit D hereto is a signed summary of that discussion. The meeting in John O'Connell's office covered the details of the June 15 encounter, events that occurred on June 20, and the June 21 encounter between Mr. Sulkis and Mrs. Kuchta in the office of the latter.

David Sulkis, City Planner

Counsel met with David Sulkis, who was accompanied by two Union lawyers. Mr. Sulkis was cooperative and answered all of the questions. Because the questions asked of Mr. Sulkis all stemmed from specific allegations recounted above, his answers can, for the most part, be set forth in summary form to avoid unnecessary repetition and verbiage in this Report.

³ The second page is not attached because it contains principally attorney-client privileged material concerning communications with the City's labor attorney and labor relations actions that were subsequently taken.

Mr. Sulkis became the City Planner for Milford in February 2004. Mr. Sulkis states that he is the Executive to the Planning and Zoning Commission, reviews plans, interprets regulations, and analyzes whether proposals will work, among a myriad of duties. He states that no employees answer to him, despite the provision in the Ordinance that he will supervise the land use staff.

As to the Zoning Enforcement Officer, Mr. Sulkis states that she acts as a counterperson, deals with complaints and violations, meets with the public, and gives staff guidance to the Zoning Board of Appeals. He acknowledges that she reports directly to the Director. He also agrees that the nature of the ZEO's job would have her in close contact with the City Attorney's Office.

As to the events of June 15, 2011, Mr. Sulkis acknowledges that he came into Mrs. Kuchta's office and stated "you know it's all your fault" (referring to the 42 Laurel Street property dispute), but states that he said so "jokingly". He denies that he said she was always asking the City Attorney's Office for their opinion giving them a "toe-hold" into Zoning issues.⁴ He "cannot recall" saying that she was not allowed to consult with the City Attorney's Office without first consulting with him or the Assistant City Planner. Rather, he claims that he said that she should seek their opinion and try to form a consensus before going to the City Attorney. He again denied saying that she should not consult with the City Attorney's Office.

When asked whether he recalled the ZEO telling him that she consulted with the City Attorney's Office on almost a daily basis not just for advice but also on other legal

⁴ With respect to the denials of Mr. Sulkis in this Report, he was cautioned by Counsel that questions about specific statements ascribed to him were intended to explore the accuracy of not only the specific words, but similar words to the same effect. Consequently, each denial is a denial encompassing similar words to the same effect.

matters such as violations, etc., Mr. Sulkis responded that he did not recall. When asked if the following (Thursday) morning that he denied ever saying that it was the ZEO's fault, he stated that he could not recall.

With regard to the encounter in Mrs. Kuchta's office on June 21, Mr. Sulkis:

Denied that he said he was not here and we never had this conversation;

Denied that she covered her ears and said then let's not have this conversation;

Denied that he knew the subject matter of the e-mail the ZEO sent to the Director;

Denied that he said that if you are going to file grievances or be part of the plot against me, you will lose;

Denied that he said the ZEO could not put anything in writing against him;

Denied that he said that if the Director asked for something, the ZEO was under no obligation to give it to her;

Denied that he said that if the ZEO told anyone what was said in the room or tried to file grievances against him, she would regret it;

Denied that he said the Director would be gone in November, that he would still be here, and would be her boss;

Denied that he said she would be the new John Doe;

Denied again that he said he will deny everything said in the room or even having the conversation;

Denied again saying he would be in charge, she would be the new John Doe.⁵

Mr. Sulkis also denied that it was fair to say that he had resisted and challenged what he had perceived to be encroachment of the DPLU Director position on the position of City Planner. He did acknowledge that “once or twice” there were disputes over the role that the City Attorney’s Office plays in the affairs of the Zoning Department. He did deny making the distinction that the ZEO could contact the City Attorney’s office only on mundane matters. He persisted in his position that she was free to contact the City Attorney after attempting to build a consensus with the City Planner or Assistant City Planner.

At the end of questioning by Counsel, Mr. Sulkis’ lawyers had no questions and Mr. Sulkis said he had nothing he wanted to add to the above exchange.

Factual Findings.

June 15, 2011

There are some grey areas involved with the events of June 15, 2011.

Mrs. Kuchta states that Mr. Sulkis came into her office and started off by saying “[y]ou know it’s all your fault”. On the following day, June 16, at a meeting in the office of the Assistant City Planner, Mr. Sulkis at first denied that he ever said that it was Mrs. Kuchta’s fault. (See Exhibit E, p. 1.) As the discussion continued, he then agreed that he had “said it but was only kidding around”. He also stated to Counsel on July 1,

⁵ With regard to the person referred to herein as John Doe, Mr. Sulkis said he was aware of “some rumors” regarding the individual, but denied knowing any details about him and denied using his name in the June 21 conversation with Mrs. Kuchta.

2011 that he had “jokingly” said it was all her fault. Mrs. Kuchta, due to his statement and demeanor did not conclude that he was “kidding”.

Mrs. Kuchta came away from the June 15 conversation believing that Mr. Sulkis had ordered her not to contact the CAO unless he or the Assistant Planner agreed. Mr. Sulkis states that he told her that she should attempt to reach a “consensus” with him or the Assistant Planner, but in the absence of the ability to reach a consensus could go forward to contact the CAO. In his communication with the Director, he reportedly stated the prohibition first, and then later added the “consensus” version. See Exhibit F.

The conclusion of Counsel is that Mr. Sulkis did say that the dispute between the Zoning Commission and the ZBA was “all her fault”, for whatever reason. It is also certain that he claimed that she could not go directly to the CAO, either because (1) she did not have the permission of the Planner or Assistant Planner, or (2) had not attempted to reach a “consensus”. Either way, joking or serious, direct prohibition or consensus building, the directive interfered with the ZEO’s ability to do her job. As stated above, the ZEO is required for a variety of reasons to consult the CAO and receive advice on a timely basis.

As to whether the City Planner agreed or suggested that the ZEO could go to the CAO directly as to “mundane” but not substantive matters, that is not his call. The ZEO is supervised as to procedural matters by the Director and it is the Director who decides the reporting lines of communication. The City Attorney’s office is perfectly capable of determining whether a request made to it by the ZEO requires consultation with either the City Planner or the Assistant City Planner. Counsel is well aware that a delay in receiving legal advice can have untoward consequences, particularly in the municipal arena.

June 21, 2011

With respect to June 21, 2011, there are no grey areas. Everything is black or white. Everything is "he said – she said". Mr. Sulkis has denied virtually everything that Mrs. Kuchta has stated or recorded. It is as if they were never in the same room together and the conversation never took place. When faced with such a situation, a tribunal must look to other means of determining what probably occurred, because there are no other direct witnesses to the event in question. Such a tribunal must look at surrounding circumstances, examine the situation in light of other events that have occurred, and make findings, not with certainty, but based upon probabilities, possibilities, likelihood, or unlikelihood, depending upon the level of proof required. This is not a criminal case. We are not entertaining concepts of "beyond a reasonable doubt".

Some of the things a tribunal can rely upon when a head-to-head conflict occurs, are the consistency of an accusation, the timeliness of an accusation, and the likelihood that certain events would occur given the totality of the surrounding circumstances. Here, Mrs. Kuchta made entries into her computer of notes related to the June 15 conversation. With respect to the June 21 conversation, she entered additional notes regarding the events of that morning between the time of the conversation at approximately 11:30 and the 11:45 a.m. approximate time she left for lunch, according to Ms. Brown. Before she left the City property, she called Ms. Brown on the telephone and reported the same facts as had been entered into the computer. When Mrs. Kuchta left the establishment where she had gone for lunch, she called the Director and told her nearly exactly the same story, which the Director committed promptly to writing as appears in Exhibit F. (Mrs. Kuchta's combined June 15 and June 21 notes are submitted

in Exhibit E. The Director's notes are submitted as Exhibit F.) Following her return to work, Mrs. Kuchta was called to the office of the Personnel Director, where she reiterated the same version of events she had earlier recounted to Ms. Brown and the Director. A brief, summary form of that statement is presented as Exhibit D. It is to be noted that Ms. Brown's verbal report to Counsel, recounting statements made to her by Mrs. Kuchta literally minutes after the Sulkis-Kuchta conversation, was given without the benefit of any notes or papers before her.

Mr. Sulkis had a history of conflict with the City and the Director relative to the powers of the Director and the authority of the City Planner. Mr. Sulkis had a history of resistance to the involvement of the Office of the City Attorney in the land use affairs. Consequently, it is not surprising or unlikely that he would be raising these topics again in the context of more current events.

Since there is no middle ground reported with respect to the events of June 21, there are only two scenarios that could be considered without engaging in wild speculation:

Scenario 1. The events of June 21 took place roughly as reported by Mrs. Kuchta in consistent and timely fashion to Ms. Brown, to the Director, to the Personnel Director, and to Counsel. Given the totality of the circumstances, Counsel concludes that it is highly probable that those events occurred as reported.

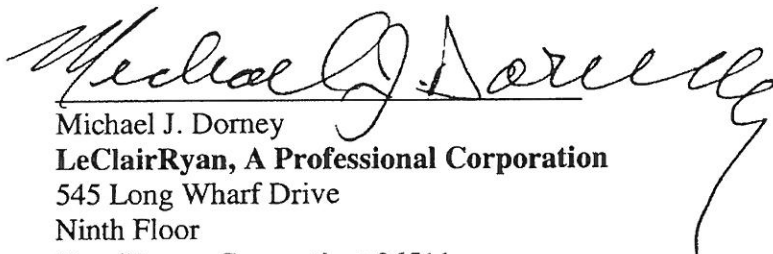
Scenario 2. It is theoretically possible that Mrs. Kuchta concocted the story, invented the various phrases that Mr. Sulkis allegedly utilized, invented the connection and the reference to John Doe, and feigned the physical and emotional reaction she manifested to Ms. Brown over the telephone and upon her re-appearance at work, and

manifested over the telephone to the Director and in her personal contact with the Director. Counsel finds this Scenario to be highly unlikely.

Neither Mr. Sulkis nor his lawyers presented any middle ground with respect to the June 21 conversation that could lead a reasonable person to conclude that perhaps something other than Scenario 1 or Scenario 2 occurred. Other than concluding that Scenario 1 did in fact develop, no other reasonable explanation has presented itself.

Dated at New Haven, Connecticut this 12th day of July, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Dorney", with a long, sweeping flourish extending from the end of the signature.

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EXHIBIT A

AT THE REGULAR MEETING OF THE BOARD OF ALDERMEN HELD ON OCTOBER 5, 2009, THE FOLLOWING ORDINANCE WAS APPROVED:

AN ORDINANCE REPEALING ARTICLE XVIII PLANNING & ZONING DEPARTMENT §§18-203 THROUGH 18-205 OF THE CODE OF ORDINANCES OF THE CITY OF MILFORD AND SUBSTITUTING ARTICLE XVIII DEPARTMENT OF PERMITTING AND LAND USE §§18-203 THROUGH 18-205 BY CREATING A DEPARTMENT OF PERMITTING AND LAND USE (DPLU)

WHEREAS, an assessment of the land use and construction permitting process in the City of Milford has identified opportunities for improvement in order to make the process more user-friendly for applicants and more efficient for City personnel, which opportunities are outlined in a Recommendations Report on Land Use and Construction Permitting, submitted to the City in December, 2008 by L. Robert Kimball and Associates; and

WHEREAS, the Kimball Report Implementation Team (KRIT) has submitted a report to the Mayor and to the Board of Aldermen which report concludes that a reform of the land use and construction permitting process will result in faster and better service for the applicants and provide greater efficiencies for City staff, while maintaining high standards of code and regulation enforcement; and

WHEREAS, it is desirable, and in the best interests of the City to reform the existing land use and construction permitting process by creating a Department of Permitting and Land Use (DPLU).

NOW, THEREFORE, be it ordained and enacted by the Board of Aldermen of the City of Milford that the Planning and Zoning Department is hereby abolished as an independent department of City government, and the respective functions of the Planning and Zoning Department, along with the functions of the Inland Wetlands office and the Building Office are hereby transferred to the DPLU and that §§18-203 through 18-205 of the City of Milford Code of Ordinances are hereby repealed and replaced with the following:

Sec. 18-203. Created

The department of permitting and land use (DPLU) is hereby established. The department shall provide for the efficient processing of land use and building applications, permits, inspections and all other functions related to planning, zoning, inland wetlands and building code compliance within the City of Milford.

Sec. 18-204. Executive Director powers and duties

The DPLU shall be managed by an executive director who shall be the head of the department. The executive director shall be appointed by the mayor and shall have such qualifications, duties and functions as are stated in or consistent with the job description for such position. The executive director shall be responsible for the efficient operation of the DPLU and shall be the direct supervisor to the city planner, assistant city planner, inland wetlands compliance officer, zoning enforcement officer and chief building inspector. The compensation of the executive director shall be established by the board of aldermen upon recommendation of the mayor, and the executive director shall report directly to the mayor.

Sec. 18-205. Composition; Staff and responsibilities of the divisions

The DPLU shall be comprised of the land use division and the building division.

(a) The land use division shall include a city planner, assistant city planner, inland wetlands compliance officer, zoning enforcement officer and such staff as may be necessary from time to time. The city planner shall be appointed by the mayor upon the recommendation of the planning and zoning board, and shall be responsible to, and under the general supervision of the executive director. The assistant city planner, inland wetlands compliance officer, zoning enforcement officer and staff members of the land use division shall be appointed in accordance with existing charter, code, regulation and/or collective bargaining agreement provisions as may be applicable to the position. Compensation and conditions of employment shall be established by the board of aldermen upon recommendation of the mayor or through the collective bargaining process, whichever may apply.

(1) The city planner shall, under the direction of and procedures established by the executive director, supervise the land use division staff. The city planner shall possess such professional education, qualifications and experience as may be established by the city, from time to time, upon recommendation of the planning and zoning board, through the job description for the position. The city planner shall provide technical and such other assistance to the planning and zoning board and to other boards, commissions and departments as may be required or helpful.

a. The land use division shall be responsible to assist the planning and zoning board, inland wetlands agency and other land use agencies in carrying out all land use functions as set forth in the Connecticut General Statutes and state and local regulations. Under the direction of the executive director, the land use division shall review all required applications for the development or subdivision of land, all requests for zoning permits, all proposals for rezoning or other amendments to zoning and/or subdivision regulations, and all inland wetlands enforcement, zoning enforcement and related land use activities in accordance with all applicable laws and regulations. The division shall prepare reports and recommendations and perform such other duties as may be prescribed, including current and long range planning for development, redevelopment and preservation activities within the city; preparation of necessary plans, studies and programs to formulate and implement the city's comprehensive plan and conducting special studies and projects relating to future growth, development and quality of life.

(b) The building division shall include a chief building inspector and such other building inspectors and staff members as may be necessary from time to time. The chief building inspector shall be appointed by the mayor and shall be responsible to, and under the general supervision of the executive director. The building inspectors and staff members of the building division shall be appointed in accordance with existing charter, code, regulation and/or collective bargaining agreement provision as may be applicable to the position. Compensation and conditions of employment shall be established by the board of aldermen upon recommendation of the mayor or through the collective bargaining process, whichever may apply.

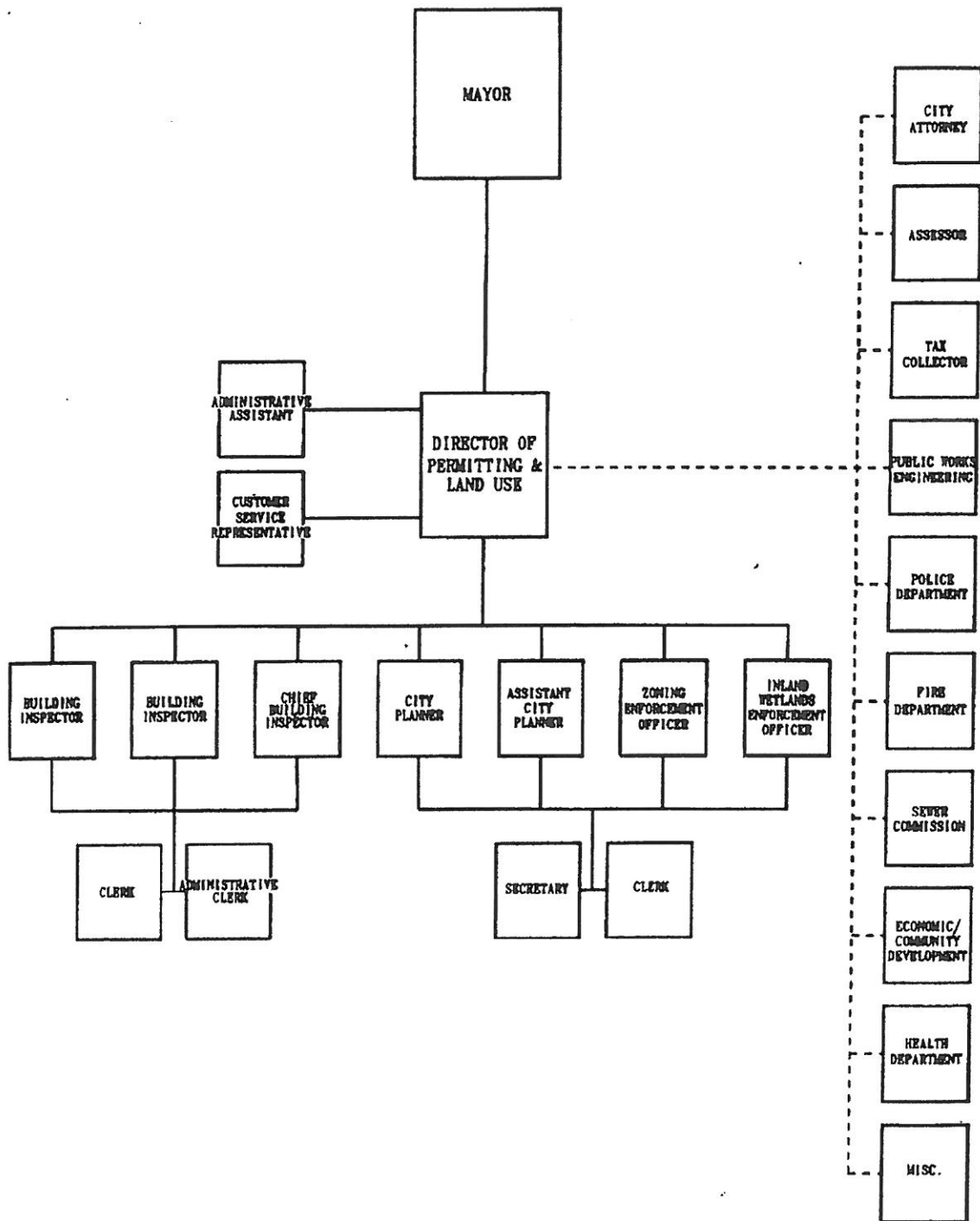
(1) The chief building inspector shall, under the direction of and procedures established by the executive director, supervise the building division. The chief building inspector shall be certified by the State of Connecticut as a building official, and shall possess such other professional education, qualifications and experience as may be established by the city, from time to time, through the job description for the position. The building division shall provide review and processing of applications and issuing of permits, shall attend meetings with other departments and commissions as necessary and perform related work as required under direction of the executive director.

a. The building division shall be responsible to assure compliance with all applicable statutes, regulations and codes in order to assure the safety of all structures within the city. Under the direction of the executive director, the building division shall be responsible for the timely review and processing of building applications and permits, construction plans, building inspections, complaints and all other activities related to construction and building within the city, in accordance with all applicable codes, laws and regulations.

DATED AT MILFORD, CT THIS
7th day of October, 2009

Attest: s/Alan H. Jepson, CCTC
City Clerk

Revised

DEPARTMENT OF PERMITTING & LAND USE
ORGANIZATIONAL CHART

Jocelyn Mathiasen

From: Kathy Kuchta
Sent: Monday, June 20, 2011 10:40 AM
To: Jocelyn Mathiasen
Subject: As Requested - Direction from David Sulkis regarding City Attorney's Office

On Wednesday, June 15th David Sulkis came into my office and said that I was not allowed to consult with the City Attorney's Office without first consulting with him or Emmeline. I informed David that I consulted with the CA's office on an almost daily basis not just for advice but also on other legal matters such as violations, etc that were pending. David said it was alright to consult with them on mundane matters but not on matters that required interpretation of our regulations or state statutes without first discussing it with either him or Emmeline.

Kathy Kuchta

Zoning Enforcement Officer

City of Milford Planning and Zoning
70 West River Street
Milford, CT 06460
203-783-3245 FAX 203-783-3303

EXHIBIT D

Notes of Kathy Kuchta's statement to Personnel Director John O'Connell and DPLU Director Jocelyn Mathiasen

- While the Permitting and Land Use Director was out of town, David Sulkis spoke to me and told me not to consult with the City Attorney's Office in the future on issues of interpretation of regulations or statutes.
- He blamed me for a Zoning Board of Appeals outcome stating that it was "my fault" because I had consulted with the City Attorney, and also said that I was allowing the City Attorney to "get a toe-hold into his business."
- After the conversation he lurked outside of my office and I had the impression that he was waiting to hear if I made a call to someone about the conversation.
- On June 20, when the Director returned, I informed her of a portion of this conversation because it represents a change in how we operate and I was concerned about not being able to obtain needed information from the City Attorney's Office, with whom I work very closely. The Permitting and Land Use Director asked me to send her a quick e-mail summarizing what David had said. I did so. I limited my comments to the director and did not include elements of the conversation that were beyond the scope of what she had asked.
- On June 20, late in the afternoon, I mentioned to Assistant City Planner Emmeline Harrigan that I'd been asked to send this e-mail and had done so.
- On June 21, David Sulkis came into my office and shut the door. He said he'd heard that I sent the director an e-mail about our conversation. He instructed me not to cooperate with the director, my supervisor, and threatened me if I continued to cooperate with her. He stated that she would no longer be the director in November, he would be her boss, and implied that he would go after me if I continued to cooperate with her. He also said that he would deny this conversation happened if I tried to do anything about it. He then opened the door and stormed out.
- After David left, I wrote up a summary of what had happened and saved it to my computer. I left for lunch and when I reached my car I called Barbara Brown and asked if she had seen him enter or leave my office and told her that I was upset and didn't know what to do. I drove to meet my son at lunch and called the director from my cell phone and told her what happened.

This is a fair representation of my conversation with Personnel Director John O'Connell and DPLU Director Jocelyn Mathiasen on June 21, 2011.



EXHIBIT E

On Wednesday, June 15th

David Sulkis came into my office and said "you know its all your fault" I asked him what he was referring to as a lot things could be my fault. He said it was all my fault that 42 Laurel Street went before the ZBA. I asked why he felt it was my fault. He said that I am always asking the City Attorney's office for their opinion thereby giving them a "toe-hold" into Zoning issues that were not their concern and allowing them to make decisions for us that we should be making ourselves.

He said that I am not allowed to consult with the City Attorney's Office without first consulting with him or Emmeline. I considered informing him that Emmeline was with me and also made the decision to ask the CA if I was required to take an application and he knew about it prior to their decision. However it was late in the day and judging by his mood I decided to talk to Emmeline in the morning to confirm with her that David knew about it ahead of time and then discuss it with him and Emmeline at the same time.

I informed David that I consulted with the CA's office on an almost daily basis not just for advice but also on other legal matters such as violations, etc that were pending. David said it was alright to consult with them on mundane matters but not on matters that required interpretation of our regulations or state statutes without first discussing it with either him or Emmeline.

I spoke to Emmeline first thing Thursday morning and she called David into the office. At first David denied he ever said that it was all my fault. I insisted that I was quoting him verbatim. He asked if he was being sarcastic when he said it and I said probably. Then he said he said it but was only kidding around. I then told him I wanted to speak to him with Emmeline in the room because she was with me when we decided to have the CA make the call as to whether we should/could take an application for a use variance. Emmeline said to David – David you know about it the day before the CA made the decision I told you about it. David agreed that he did know about it and that wasn't necessarily the problem. The problem was giving them too much information and asking for decisions that should be discussed with himself and Emmeline prior to asking for any decisions across the street.

We ended amiable. For the next couple of days David made jokes that it was raining and that was my fault – it was nice out and that was my fault which felt forced to prove that he did not approach me initially in any other way.

On June 21 at approx 11:30 am – David Sulkis came into my office and said that he was not here and that we never had this conversation. I covered my ears and said then lets not have the conversation. He said he heard that I had put information concerning him in writing to Jocelyn. He asked what I wrote. I told him it was only a couple of sentences re contacting the city attorney's office and that was all the information that I put in the e-mail. I did not add anything other than what I was specifically asked for which was a statement regarding our conversation concerning contacting the city attorney. Basically I said that you said that I cannot contact the City Attorney's office without consulting with you and Emmeline first. He told me that if I am going to file grievances or be part of the plot against him that I

was going to lose. He said that Jocelyn was conspiring against him and trying to have him fired and that I was not to put anything in writing concerning him again. That by doing so I was helping her build a case against him. I said that if my Director asked me for a simple statement of facts concerning a conversation that I had with you- it did not make me any part of any conspiracy. I said that I seriously doubted that my couple of sentences was building a case against him and he said I was giving her another piece of the pie that she was building against him and I was never to put anything in writing against him again - that she cannot ask for it and if she does I am under no obligation to give it to her. He said that if I tell anyone what was said in this room or try to file any grievances against him that I would regret it. Jocelyn is going to be gone in November and he will still be here and he will be in charge and he would be my boss and I would be the new [REDACTED] He said - Mark his words that Jocelyn will definitely be gone in November and that he would be my boss. If I help Jocelyn in any way then I will be the new [REDACTED] and that he will deny everything that was said in this room. I said ok. He said remember I am going to be in charge and you will be the new [REDACTED] If you try to do anything against me or tell anyone what was said in this room I will deny ever having this conversation.

I attest to the truth of
the above statements regarding
June 15 and June 21, 2011

Kathleen Kuchta
Kathy Kuchta

Subscribed and sworn to
before me on June 23, 2011

Michael J. Dorney
Michael J. Dorney
Commissioner of the
Superior Court

Jocelyn Mathiasen

From: Jocelyn Mathiasen
Sent: Monday, June 20, 2011 3:00 PM
To: David Sulkis; Emmeline Harrigan
Cc: Kathy Kuchta; Susan Shaw (collectedstory@optonline.net)
Subject: RE: CAO

David,

This is different from what you told me last week, when you specifically indicated that we would avoid asking questions of the CAO and that Kathy "should not be consulting them."

My position on this is clear – no matter what you think of individuals within that office, we cannot circumvent them but instead need to work with them to achieve the outcomes that we believe are in the best interests of the city. Trying to circumvent them, or going in direct opposition to them, makes things worse and may have contributed to the unfortunate outcome on the Laurel Street matter.

[REDACTED]

Jocelyn

From: David Sulkis
Sent: Monday, June 20, 2011 2:34 PM
To: Jocelyn Mathiasen; Emmeline Harrigan
Cc: Kathy Kuchta; Susan Shaw (collectedstory@optonline.net)
Subject: RE: CAO

Hi Jocelyn,

Just for clarification, and as we discussed last week, I never told Kathy she shouldn't talk to the City Attorney. I told her that if there was an unusual situation, she should ask Emmeline and me first so that we could have a staff consensus on the issue.

This avoids the problems in the past where different staff people gave out different or conflicting answers to the customer or having the customer "shop around" for a better answer. If after that, a consensus can't be reached, she should then ask for an opinion.

Dave

David B. Sulkis, A.I.C.P.
City Planner
City of Milford
70 West River Street
Milford, CT 06460
Phone (203) 783-3245
Fax (203) 783-3033
<http://www.ci.milford.ct.us>

Statement of Jocelyn Mathiasen, Director, Permitting and Land Use

On June 21 in the afternoon I received a phone call from Kathy Kuchta, Zoning Enforcement Officer for the City of Milford. She said "I am calling you from my cel phone because I am being watched. David Sulkis threatened me." Her voice was shaking. I asked her to calm down and start from the beginning.

She told me that David Sulkis came into her office, shut the door, and said something to the effect that "we are not having this conversation." She covered her ears and told him to leave. Instead of leaving, he asked her if she had sent information to me about a conversation they had had related to the City Attorney's Office. When she said she had, he told her that she should not have, and that just because I ask for something she does not need to produce it. He said that I am building a file against him and that she was contributing. Kathy told me that her response was that if her director asks her to produce something she will do it, and also that she didn't think that what she produced was going to damage him. As an aside, Kathy mentioned to me that what she had e-mailed me was only a fraction of what David had told her and that she actually felt like she had protected him by not sharing a lot of information about what he had said with me.

My notes indicate that Kathy quoted David as saying the following:

- "she (the director) is out of here in November."
- "Don't try to cross me."
- "Don't try to file grievances against me."
- "[What you are giving her is a] piece of the pie [that she is using to build a case against me]"
- "Mark my words, she [the director] is going"
- "I'm going to be your boss and she (Kathy) "is going to be the next _____." (The blank refers to a staff person who David believes is in the process of being fired.

David said several times that he would become her boss and that if she crossed him she would regret it. Kathy felt that this was a clear threat. He then told her that he would deny that this conversation ever happened and that she should not dare file a grievance against him because he would deny everything. When David left, he was extremely angry and slammed the door. She said that he was extremely loud and intimidating and she did not want to be alone with him again. A clerk in the office, Barbara Brown, saw him leave. Kathy quickly wrote up a summary of the conversation on her computer and then told Barbara what had happened. Following that, she left the office to have a pre-arranged lunch with a relative.

Following the lunch is when Kathy called me on her cel phone. She did not know what action to take because she was afraid. She said that she didn't know what to do and that if she did do anything it would have to be when David was on vacation because she was afraid.

Kathy was reluctant to take any action on what had happened with David still in the office. I asked her if she'd be willing to tell the Personnel director what happened and she said she might be. I told her that I would follow up.